



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

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GOVERNOR

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SECRETARY

**North Carolina Board of Transportation  
Environmental Planning and Policy Committee  
Meeting Minutes for January 9, 2002**

A meeting of the Environmental Planning and Policy Committee (EPPC) was held on January 9, 2002 at 8:00 AM in the Board Room (Room 150) of the Transportation Building. Nina Szlosberg chaired the meeting. Other Board of Transportation members that attended were:

Conrad Burrell	Margaret Kluttz
Nancy Dunn	Cam McRae
Doug Galyon	Nina Szlosberg
Larry Helms	Alan Thornburg
Clark Jenkins	Lanny Wilson
Frank Johnson	

Other attendees included:

David Allsbrook	Len Hill	Sandy Nance
Kari Barsness	Mike Holder	Ken Pace
Wally Bowman	Pat Ivey	Benton Payne
Roberto Canales	Berry Jenkins	Allen Pope
Don Conner	Fred Lamar	Lubin Prevatt
Craig Deal	Neil Lassiter	Ellis Ross
Steve DeWitt	Don Lee	Bill Rosser
Janet D'Iganzio	Robin Little	Ruth Sappie
Terry Gibson	Dan Martin	Roy Shelton
Bill Gilmore	Carl McCann	Jim Trogden
Lisa Glover	Ehren Meister	Steve Wall
Carl Goode	Ashley Memory	Ron Watson
Rob Hanson	Mike Mills	Theresa Wyatt

Ms. Szlosberg called the meeting to order. After opening remarks, Ms. Szlosberg accepted a motion to approve the minutes as presented from the December 5, 2001 EPPC meeting. The motion was approved unanimously.

David Allsbrook, Deputy Chief Engineer, gave an update on the temporary rulemaking for State Minimum Criteria. The purpose of his presentation was to obtain approval of the EPPC for the proposed State Minimum Criteria for the purpose of temporary rulemaking. If approved by the EPPC, the rules would be presented to the Board of Transportation on January 10, 2002 for approval and become effectively immediately. Mr. Allsbrook reminded the

committee that at the October Board meeting, the EPPC and the full Board approved the proposed temporary rules for publication in the *North Carolina Register* to begin the temporary rule making process. Legislation required NCDOT to (1) notify people on the mailing list, (2) hold at least one public hearing (two hearings were held on November 20, 2001), and (3) receive public comments for 30 days. At the same time, these rules were submitted to the State Environmental Clearinghouse for publication in the *Environmental Bulletin*. The Clearinghouse also has a 30-day comment period. Comments have been sent back to DOT for review.

Based on the comments received, NCDOT staff recommended the following additions and changes to the proposed temporary rules:

- the term “railroad” or “railway” was added in several places to clarify that the rules also apply to rail projects {Section .0102 (5)(6)(7)(8)(12) and (18)}
- Section .0102 (8) and (15) were modified, as clarification, so a larger project would not be divided into several smaller minimum criteria projects to avoid preparing proper environmental documentation
- Section .0102 (9) modified to clarify pipes, culverts and bridges
- Section .0102(17) was reworded to make clear that the rule does not allow the construction of new runways
- two new categories were added to address additional environmental issues Section .0102 (28) and (29)
- Section .0103(1) and (2) were amended in response to DOT staff, DENR and attorney for Rules Review Commission

Nina Szlosberg asked Mr. Allsbrook to describe the process that was used to evaluate the comments that were received during the public hearings and the public comment period. Mr. Allsbrook stated that once the comments were received and the hearings held, an interdisciplinary team of NCDOT staff reviewed them and recommended changes as they deemed appropriate. Mr. Clark Jenkins asked who the public commentators were and how large the agencies and groups were that responded. The North Carolina Conservation Council is one of the state’s oldest and largest conservation groups and represents many environmental advocacy groups that are members. Ms. Betty Lawrence is associated with about 30 individuals from western North Carolina. Marsh Smith is an attorney who has been active in several large transportation projects and has worked closely with NCDOT and the NC Department of Environment and Natural Resources to resolve environmental issues associated with specific projects. Ms. Szlosberg noted that when she inquired about the number of people and/or organizations on the list of those to receive notice, she was concerned to learn that only nine names were on the list. Ms. Szlosberg suggested that she had expressed that concern to Mr. Allsbrook and they agreed that the next outreach effort regarding the State Minimum Criteria rules should be more proactive and inclusive of other entities in its request for comments.

Frank Johnson asked for information on the next steps for rulemaking on the State Minimum Criteria. Mr. Allsbrook stated that if the EPPC approved the temporary rules, the Board of Transportation would be asked to approve them the following day. In addition, the approved rules would be sent to the State Clearinghouse for their review and approval. Mr. Johnson also inquired as to the trigger that requires an environmental document to be prepared, citing concern that someone in the department needs to be accountable for making a final decision on whether an environmental document needs to be prepared or not. Mr. Johnson suggested the staff modify the language to include accountability from the Secretary’s office.

Ms. Szlosberg asked if NCDOT has training for federal and state protected species identification. Mr. Allsbrook responded by saying that there is currently a lot of training that is occurring in all areas. Protected species are listed by

county or route and the division staff can use this resource to identify possible protected species in a proposed project area.

Nancy Dunn asked when the temporary rules would be in place and how this might affect project already in progress. The rules will be in place on January 10, 2001, provided the Board of Transportation approves them on that date. Projects currently in progress will not be affected by the temporary rules and are covered by our existing policy on minimum criteria.

Ms. Szlosberg asked how the 25-acre threshold for one of the criteria was originally established. Mr. Allsbrook responded that in the early 1990's when State Minimum Criteria was first established as NCDOT policy, it was the opinion of the division engineers that a 25-acre project could be implemented without substantial adverse impact on the environment. In addition, when the Department of Administration developed their State Minimum Criteria rules, they adopted NCDOT's 25-acre threshold as their criteria.

A motion was made to adopt the temporary rules, as presented by Mr. Allsbrook, with an understanding that the staff would modify the language with the intent to reflect that the Secretary or his designee shall make a determination if environmental documentation is required if the minimum criteria are not met. The staff was directed to modify the language with the understanding that the modified rules would be presented to the Board of Transportation for adoption on the following day.

Mr. Allsbrook then requested that the EPPC consider an additional request by staff to make a revision to the State Minimum Criteria Rules so that it may be considered during the permanent rulemaking process. The proposed revision adds the following to the proposed rules:

*"02F.0102(b) Additional actions at and below the threshold of activities at which NCEPA environmental documentation is required, not specifically listed under section (a) above, shall be minimum criteria activities, but only after the Department determines, through documentation, that the specific activity will have no adverse significant impact on the environment."*

Ms. Szlosberg expressed concern that this language had not been included during the public hearing process.

Mr. Alan Thornburg also expressed concern about the lack of public notice. Mr. Jenkins moved that the language be added during the permanent rule making process that includes a public comment period. The motion passed without objection.

Mr. Allsbrook gave an overview of the permanent rule-making process that is forthcoming:

- Submit and publish Notice of Text in *North Carolina Register*
- Hold public hearing
- Take public comments for 30 days
- Submit rules to Board
- Submit rules to Rules Review Commission
- If approved, NCDOT must wait for legislative action/inaction

Nina Szlosberg and Julie Hunkins, Assistant State Highway Administrator, presented information on Performance Measurement for Environmental Protection. Ms. Hunkins began by discussing the overall importance of performance measurement, stressing that measurement is needed as an integral part of process improvement to identify what is

working well and that that needs further attention. An overview of the 6-step process improvement methodology that is being used to improve NCDOT's environmental processes was provided: (1) commitment to performance improvement, (2) select and scope process, (3) analyze current process, (4) design new process, (5) implement new process, and (6) manage new process. Performance measurement is embedded in the management of the new process. Where the desired improvements are not realized, the 6-step cycle is repeated. It is important to measure the most important things, as determined by the customers of a process. Performance measurement can be used to develop data that can identify where successes have been obtained, where problems lies, and as a way to develop accountability. In addition, measurement can help identify which improvements provide the biggest "bang for the buck" opportunities in terms of the investment decisions. Measurement can be made of both processes and products. Process measurements are often associated with the efficiency and effectiveness, whereas product measurements may reflect quantity, quality or specific outcomes.

Ms. Slozberg gave an overview of the work of the Environmental Performance Measures Team that is associated with the permit process improvement initiative. The team includes members from the NC Department of Environment and Natural Resources, NCDOT, US Fish and Wildlife Service, and the US Army Corps of Engineers. Mr. Jenkins asked who from the DOT is represented on the team. Randy Turner, Charles Bruton, Julie Hunkins and Dave Henderson are the DOT representatives. Mr. Jenkins suggested that he would like to see someone from the operations side added to the team. A charter was developed for the multi-agency team to outline it's mission, purpose, specific deliverables, team members, and timeframe. The mission of the team, who began work in December 2001, is to develop measures to gauge the effectiveness of North Carolina's transportation programs in increasing environmental protection and overall environmental system conditions. To evaluate success, it is necessary to develop measures to determine how effectively a process functions and to what degree it supports the Department's mission outcomes. Criteria under consideration to determine what will be measured include:

- Each measure should have an operational definition that is readily understandable by employees supporting the process.
- Can you maintain reasonable control/influence over the measure?
- Is the measure useful to whoever can act on it?
- Is the data obtainable?
- Does it tell how we are doing with the process and desired environmental outcomes?

The team's first task is to determine the customer needs associated with NCDOT's performance in the area of environmental protection as it relates to delivery of the transportation program. Both internal and external customers will be canvassed, and the Environmental Planning and Policy Committee was requested to submit input they have directly to Ms. Szlosberg. The Environmental Protection Measures Team meets monthly and anticipates having a document with recommendations ready for review in June 2002.

Mr. Clark Jenkins requested that the Carolina Asphalt Paving Association be invited to the EPPC to give an overview of what the asphalt industry is doing to lessen its impact on the environment.

The next meeting for the Environmental Planning and Policy Committee is scheduled for Wednesday, February 6, 2002 at 8:00 AM in the Board Room (Room 150) of the Transportation Building.

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